

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

UNITED STATES OF AMERICA

VS.

CAUSE NO. 2:19-cr-51 KS-MTP

WADE ASHLEY WALTERS

DEFENDANT

MOTION TO QUASH SUBPOENA AND/OR FOR A PROTECTIVE ORDER

Jonell Beeler, Esq. (“Beeler”), is a lawyer in the Jackson, Mississippi office of Baker Donelson Bearman Caldwell & Berkowitz, P.C. She was personally served with a subpoena duces tecum by Defendant Wade Ashley Walters (“Walters”). Defendant’s subpoena seeks the following:

Any and all records, files, memos, notes, emails, subscription agreements, operating agreements, to include drafts, whether in printed or digital format, related to legal work for Hope Thomley and/or Wade Walters; Prime Care Marketing, LLC and/or Total Care Marketing.

See ECF No. 54-1 at p. 3.

Baker Donelson was not served a subpoena, yet the files in question are firm attorney-client privileged files. Regardless, Walters has never been a client of Baker Donelson or Beeler. Baker Donelson was retained by Prime Care Marketing, LLC and Total Care Marketing, LLC to do a limited scope of legal work for those companies in November 2012; and the representation was formally terminated in October 2013.

Baker Donelson and Beeler did not serve as counsel to Walters or Hope Thomley (“Thomley”) irrespective of their positions with those entities. As stated in the Mississippi Rules of Professional Conduct, “[a] lawyer employed or retained by an organization represents the organization through its duly authorized constituents.” *See* Rule 1.13(a). These two entities

Prime Care Marketing, LLC and Total Care Marketing, LLC were Baker Donelson's only clients, Thomley and Walters were not clients.

Here, Walters has not submitted any documentation to demonstrate that he has the legal authority to waive the attorney-client privilege held by the two entities, despite requests to do so by Baker Donelson. Walters simply served a subpoena on Beeler with a demand to produce the legal files held by Baker Donelson, which are clearly protected by the attorney-client privilege.¹

Under the Rules of Criminal Procedure, "the court may quash or limit a subpoena if compliance with the subpoena would be unreasonable or oppressive." Fed.R.Crim.P. 17(c)(2). A subpoena should be quashed or limited in scope to prevent the production of material that is privileged under either the attorney-client privilege or the attorney work product doctrine. *See U.S. v. Newell*, 192 F.R.D. 587, 588-89 (N.D. Ill. 2000) (quashing subpoena seeking materials subject to attorney-client privilege and attorney work product doctrine).

It goes without saying that a subpoena for file materials held by a law firm implicates the attorney-client privilege. Neither Beeler nor Baker Donelson can waive the privileges owned by the subject entities. Consequently, the files cannot be released in response to Walters' subpoena. If Walters possesses the authority from the entities to obtain the file materials protected by the attorney-client privilege, then he must submit supporting legal documentation to that effect to authorize Baker Donelson to release the requested materials. Without that authorization, this Court should quash the subpoena and/or significantly limit the scope of the subpoena.

For these reasons, Beeler and the Baker Donelson law firm respectfully request that the Court quash or significantly limit the scope of Walters' subpoena.

This the 5th day of March, 2020.

¹ Obviously, if Walters had the authority with these entities, he could have informally requested copies of Baker Donelson's files and a subpoena would not have been necessary.

Respectfully submitted,

JONELL BEELER

By Her Attorneys,

BAKER DONELSON BEARMAN
CALDWELL & BERKOWITZ, PC

By: s/ Brad C. Moody
BRAD C. MOODY

Brad C. Moody (MB# 101628)
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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the MEC System, which will send notification of such filing to registered participants.

This the 5th day of March, 2020.

s/ Brad C. Moody
BRAD C. MOODY